

# YOUTH SERVICES POLICY

<b>Title:</b> Sexual Harassment <b>Next Annual Review Date:</b> 05/26/2010	<b>Type:</b> A. Administrative <b>Sub Type:</b> 2. Personnel <b>Number:</b> A.2.8
	<b>Page 1 of 5</b>
<b>References:</b> ACA Standard 2-CO-1C-11 (Administration of Correctional Agencies); Title VII of The 1964 Civil Rights Act, Equal Employment Opportunities Commission Guidelines, Youth Services Employee Manual	
<b>STATUS:</b> Approved	
<b>Approved By:</b> Mary L. Livers, Deputy Secretary	<b>Date of Approval:</b> 05/26/2009

## I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

## II. PURPOSE:

To establish a formal policy regarding sexual harassment and sexual discrimination. It is the Deputy Secretary's intent to maintain a workplace free of sexual harassment and sexual discrimination from any source, to discourage such conduct, and to quickly address violations of this policy, responding with investigation and disciplinary action when appropriate.

## III. APPLICABILITY:

All applicants, candidates, visitors, employees and units of Youth Services (YS). Each Unit Head is responsible for ensuring that all necessary procedures are in place to comply with the provisions of this policy.

## IV. DEFINITIONS:

**Sexual Harassment** - Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. For the purpose of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, derogatory or stereotypical remarks/comments concerning sexual prowess or sexual deficiencies; leering, catcalls or touching; threatening, intimidating, insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects, pictures, or notes including, but not limited to, memoranda, letters, or e-mail; and other physical, verbal or visual conduct of a sexual nature.

**Unit Head** - Deputy Secretary, Undersecretary, Assistant Secretary, Deputy Assistant Secretaries, Facility Directors and Regional Managers.

**YS Central Office** - Offices of the Deputy Secretary, Undersecretary, Assistant Secretary, Deputy Assistant Secretaries and their support staff.

**V. POLICY:**

It is the Deputy Secretary's policy to provide a workplace free from sexual harassment. Youth Services prohibits and will not tolerate any such behavior. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

**VI. WHAT AN EMPLOYEE SHOULD DO IF HE THINKS HE IS BEING HARASSED:**

An employee who believes he is being subjected to sexual harassment must take reasonable steps to stop the harassment. Individuals who believe they are being subjected to sexually harassing conduct are encouraged to promptly advise the offending individual that the behavior is unwelcome and request that it be discontinued. Failure to have this dialogue does not in any way prevent or

hamper the harassed employee from making a verbal or written complaint to a supervisor. Reasonable steps to stop the harassment also include utilizing the OYD complaint procedure, set forth in Section VIII below.

**VII. RETALIATION IS PROHIBITED:**

Youth Services prohibits retaliation against any individual who reports sexual harassment and/or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or for participating in an investigation of a claim of harassment is a serious violation of this policy and, like harassment itself, will be subject to disciplinary action.

**VIII. REPORTING AN INCIDENT OF SEXUAL HARASSMENT OR RETALIATION:**

- A. Youth Services requires the reporting of all incidents of sexual harassment, sexual discrimination or retaliation regardless of the offending individual's identity or position.

Persons who believe they have experienced or witnessed conduct that is contrary to this policy or who have concerns about matters involving possible sexual harassment must make the situation known so that management can address the matter. Ideally, an employee-witness would file a statement or Unusual Occurrence Report (UOR), and/or an employee-witness would file a written complaint or UOR with the Unit Head or his designee and send a copy to the Central Office Human Resources Office and to the facility attorney. However, a verbal report of sexual harassment is as valid as a written complaint. If an employee makes a verbal complaint to a supervisor, it is the supervisor's responsibility to immediately prepare an Unusual Occurrence Report or a memorandum, and forward that document to the Unit Head. If a supervisor hears a second- or third-hand report of sexual harassment, he must respond in the same manner as if the complaint was directly reported to him.

- B. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of sexual harassment. Therefore, while no fixed reporting period has been established, Youth Services requires the prompt reporting of complaints or concerns so that rapid and constructive action can be taken.

**IX. INVESTIGATION OF SEXUAL HARASSMENT OR RETALIATION:**

- A. Anyone who receives (hears about, is told about) a complaint shall immediately write a UOR/memorandum/statement and promptly report all complaints received pursuant to this policy to the Unit Head or his designee.
- B. Any reported allegations of harassment or retaliation shall be investigated immediately and thoroughly by an individual designated by the Unit Head to determine the pertinent facts of the complaint.
- C. Pending the investigation, the Unit Head may temporarily reassign the alleged harasser so that there is no further contact between the complainant and the alleged harasser.
- D. The investigation may include individual interviews with the parties involved and with individuals who may have observed the alleged conduct or may have other relevant knowledge.
- E. Depending on the nature and severity of the complaint, an informal conference, which may include the person filing the complaint and the alleged harasser, may be conducted by the Unit Head or designee(s) in an effort to resolve the complaint. Employees participating in the conference may choose to be accompanied by a co-worker or other representative. If the conference resolves the complaint, the investigation may be discontinued.
- F. Confidentiality will be maintained throughout the investigatory process. Information regarding a sexual harassment incident and investigation is confidential and may only be shared and discussed among personnel necessary to the investigation.
- G. Records of sexual harassment investigations shall be retained for a minimum of five years.

**X. SANCTIONS:**

- A. If a complaint has merit, the Unit Head shall take appropriate measures that are reasonably calculated to end the sexual harassment. This may include disciplinary action or appropriate non-disciplinary action including Performance Review actions.
- B. Disciplinary penalties available include, but are not limited to:

1. Reduction in pay;
2. Demotion in rank;
3. Suspension without pay; and
4. Dismissal.

**XI. APPEAL RIGHTS:**

If an employee making a complaint does not agree with the resolution, the employee may file a grievance as outlined in the Youth Services Employee Manual.

**XII. POSTING, TRAINING AND DISTRIBUTION:**

Each Unit Head shall ensure that all current employees receive training relative to the contents of this policy and all new employees receive this training either during orientation, during in-service training or at other designated times. This policy is to be a part of the annual in-service training curriculums. Signage promoting a harassment-free workplace and instructions on how to file complaints must be posted in all work areas of YS.

**XIII. FILING CHARGES WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

An aggrieved employee may file charges of sexual harassment with the EEOC even if they have not utilized the complaint procedure (Section VIII). However, it makes sense to wait to see if management corrects the harassment before filing a charge. The deadline for filing an EEOC charge is either 180 or 300 days after the last date of alleged harassment, depending on the state in which the allegation arises. This deadline is *not* extended because of an employer's internal investigation of the complaint.

The address of the EEOC New Orleans Field Office is:

1555 Poydras Street  
Suite 1900  
New Orleans, LA 70112

1-800-669-4000.